S.B. Civil Writ Petition No.824/05
Chandra Bhan Shorya Vs. State & Ors.

Date of Order : 13/04/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Pradeep Asthana, for petitioner
Mr. P.S. Sharma, for respondents

Instant petition has been filed for seeking release of his retiral benefits which became due and payable on retirement from service after attaining the age of superannuation on 31st July, 2001.

The facts are almost undisputed. The petitioner joined service initially on 15th April, 1965 and finally retired from service from the officers' cadre after attaining age of superannuation on 31st July, 2001 and since his retiral dues have not been paid, he made a request and he was informed vide order dt.30th August, 2002 [Ann.2] that because of some irregularities committed inquiry was contemplated against him and on the said premise, his dues were with-held. Thereafter, the inquiry u/s.57 of the Co-operative Societies Act, 2001 was initiated and finally it was dropped by the authority vide order dt.17th January, 2004 [Ann.5]. Against which, the respondent Bank preferred appeal before the Additional Registrar, Co-operative that

too was also dismissed on 16th September, 2004 [Ann.10] and despite the inquiry being finally dropped against the petitioner, his retiral benefits which became due and payable to him, were not released. Even on the request made by the petitioner, the Registrar, Co-operative Societies also wrote a letter dt.31st January, 2005 [Ann.13] directing the respondent Bank to release all his retiral benefits.

Counsel for petitioner submits that without any authority under law, his retiral benefits were with-held by the respondents even after inquiry was finally dropped against him on 17th January, 2004. Such action of the respondents is wholly arbitrary and violative of Article 14 of the Constitution and so also of principles of natural justice.

Counsel for petitioner further submits that once the inquiry was finally dropped in January, 2004 with-holding of retiral dues thereafter is not sustainable and he is entitled for interest over the amount which became due and payable to him.

Respondents have filed reply to the writ petition and so far as respondent No.3 is concerned, they have tried to justify with-holding of retiral

benefits because of alleged irregularities committed by the petitioner, but nothing has been forwarded as to why the same has been with-held after the inquiry was finally dropped by the competent authority. Even on the question put to the counsel still no reasonable justification of with-holding retiral benefits after January, 2004 has come forward. No rule has been otherwise shown on the basis of which dues can be with-held by the authority. In the absence whereof, in my opinion, with-holding of retiral dues of the petitioner by the respondents is totally arbitrary and their action was in clear violation of Article 14 of the Constitution.

Before concluding the matter, counsel for petitioner has brought to my notice that there is sum due towards house building advance and cash credit limits [personal advance], but it could not have been paid by him because of non-payment of retiral dues to him and because of its non-payment, the Bank is also charging interest over the said amount.

Counsel for respondents submits that whatever interest is being charged is under the agreement. In my opinion, there is justification in the contention of the counsel for petitioner that if retiral dues

have not been paid, certainly it could not have been meted out by him to clear such allowances which are due and to settle down from his retiral benefits.

Accordingly, the writ petition stands allowed with the direction that the respondents may first compute all allowances which are due/outstanding against the petitioner towards house building advance and cash credit limits [personal advance] without charging any interest, the actual amount due against the petitioner be adjusted and rest of the amount due towards his retiral benefits be paid to him within a period of two months after its due computation. Compliance of the order be made within a period of two months. No costs.

[Ajay Rastogi],J.

FRB